

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EUGENE E. CHATMAN,

Plaintiff,

09cv1524

ELECTRONICALLY FILED

v.

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM AND ORDER OF COURT GRANTING
DEFENDANT'S MOTION TO DISMISS (DOC. NO. 8)

This is plaintiff Eugene E. Chatman's third attempt to sue the United States of America under 42 U.S.C. § 1983, based on his claim that he was improperly denied permission to the Veterans Administration ("VA") facility at Highland Drive in Pittsburgh because of his disorderly conduct, and was physically assaulted, harassed, verbally threatened and unjustifiably restrained by employees at the VA Highland Drive facility. As the government correctly states, the "gravamen of [plaintiff's] Complaint is the same as that filed by Plaintiff on January 23, 2003 in Civil Action No. 02-2165 and on June 2, 2003 in Civil Action No. 03-0798, both previously dismissed by this Court." Brief in Support of Motion to Dismiss (Doc. No. 9), at 1.

On March 1, 2004, this Court dismissed Plaintiff's claims against the VA in Civil Action No. 03-0798 on the grounds of issue preclusion and lack of subject matter jurisdiction. See Memorandum Opinion dated March 1, 2004 (Doc. No. 17), which was upheld on appeal. *Chatman v. United States*, No. 04-1602, 115 Fed. Appx. 600 (3d Cir. 2004). The government again asserts issue preclusion and lack of subject matter jurisdiction in this action.

Plaintiff's response to the motion to dismiss merely recites the facts and circumstances regarding incidents at the VA facility, as plaintiff remembers them, and makes no attempt

whatsoever to rebut the government's arguments for dismissal. The Court will grant the government's motion to dismiss for the reasons stated in the Memorandum Opinion dated March 1, 2004 (Doc. No. 17) in Civil Action No. 03-0798. Accordingly,

Defendant's Motion to Dismiss (Doc. No. 8) is HEREBY GRANTED, and this case is dismissed with prejudice.

The Clerk of Court shall mark this case closed.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties

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